IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

JAMES PAVATT, **Plaintiff,** **and** **JEFFREY D. MATTHEWS,** **Intervenor Plaintiff,** **v.** **JUSTIN JONES, *et al.*,** **Defendants.**	)))))))))))))))	**Case No. CIV-10-141-F**

COMPLAINT

I. PRELIMINARY STATEMENT

1. Plaintiff, Jeffrey Matthews, is a prisoner sentenced to death by the State of Oklahoma. By statute, Oklahoma employs lethal injection as its method of execution. Defendants and the Oklahoma Department of Corrections [hereinafter "ODOC"] have designed a procedure for carrying out Oklahoma's statutory method of execution that purports to induce death only after a condemned prisoner has been rendered unconscious and unable to experience pain. In reality, the policies and practices devised by Defendants and the ODOC unnecessarily risk conscious suffering and pain during execution and deliberately ignore and are indifferent to the health and safety of condemned prisoners.

2. This action is brought pursuant to Title 42, section 1983, of the United States Code for violations and threatened violations of the rights of Plaintiff to be free from cruel and unusual punishment under the Eighth and Fourteenth Amendments of the United States Constitution, to be free from arbitrary and capricious Department of Corrections' procedures and protocols in violation of the Fifth and Fourteenth Amendments of the United States Constitution, and to be free from the deliberate indifference of Defendants toward Plaintiff's health and safety in violation of the Eighth and Fourteenth Amendments of the United States Constitution. Plaintiff seeks equitable and injunctive relief.

3. This lawsuit does not challenge the fact of Plaintiff's sentence of death, nor does it challenge the constitutionality of Oklahoma's statute requiring execution by lethal injection.

4. Mr. Matthews adopts and realleges the allegations of the Complaint filed in *Pavatt v. Jones,* Case No. CIV-10-141-F.

II. PLAINTIFF

5. Jeffrey Matthews is a United States citizen and resident of the State of Oklahoma. He is currently a prisoner under the supervision of the Oklahoma Department of Corrections, ODOC Number 195154, who is sentenced to death by lethal injection. Mr. Matthews is held at H-Unit of the Oklahoma State Penitentiary at P.O. Box 97, McAlester, Oklahoma 74502-0097.

III. DEFENDANTS

6. Defendant, Justin Jones, is the current Director of the Oklahoma Department of Corrections, 3400 Martin Luther King Avenue, Oklahoma City, Oklahoma 73111; Defendant, Randall Workman, is the current Warden of Oklahoma State Penitentiary, P.O. Box 97, McAlester, Oklahoma 74502-0097.

7. Defendants, Unknown Executioners, are the officers, agents, employees, and successors in office, along with those acting in concert with them, of the Oklahoma Department of Corrections who will assist in carrying out the execution of Plaintiff. Plaintiff does not yet know the identities of the Unknown Executioners.

8. Defendants are acting under color of State law in establishing and designing the ODOC execution policies and protocol and will act under color of State law in selecting and administering to Plaintiff chemicals in amounts, combinations, and by methods that will unnecessarily risk conscious suffering and pain in the execution of a sentence of death and/or which are deliberately indifferent to the health, welfare, and safety of Plaintiff.

IV. JURISDICTION AND VENUE

9. This action arises under 42 U.S.C. § 1983 to redress the deprivation under color of State law of rights, privileges, and immunities secured by the Constitution of the United States. The rights sought to be redressed are guaranteed by the Eighth, Fifth, and Fourteenth Amendments to the United States Constitution. This Court has jurisdiction over this complaint pursuant the following provisions: 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1343 (civil rights violations); 28 U.S.C. § 2201

(declaratory relief); and 28 U.S.C. § 2202 (further relief).

10. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b).

V. FACTUAL ALLEGATIONS

11. Plaintiff realleges and incorporates paragraphs 1 to 10, as if fully set out herein.

12. Lethal injection has been promoted as a peaceful way to induce death, like euthanizing a pet – a single injection, quick unconsciousness, no struggling or movement, and death within seconds. With frightening regularity, however, that is not what happens in Oklahoma.

13. Scott Carpenter was executed by the State of Oklahoma on Thursday, May 8, 1997. At ten minutes after midnight, as lethal drugs entered his body, witnesses report that Mr. Carpenter "moaned loudly. He exhaled and then his body convulsed. As the drugs began to take effect, [Mr.] Carpenter made loud rasping sounds and continued to convulse his muscles [and] visibly tensed as he struggled to breathe as the color drained from his face." Four minutes after the execution began, Mr. Carpenter "[t]urned a deep shade of blue." Mr. Carpenter "let out a guttural moan, gasped for breath and convulsed violently, stretching the belt that strapped his body to the table as his body arched upward," his body "shuddered with 18 violent convulsions, followed by eight lesser ones." Twelve minutes after the execution began, Mr. Carpenter was pronounced dead.

14. Robyn Parks was executed by the State of Oklahoma on Tuesday, March 10, 1992. At forty-two minutes after midnight, the execution began. Mr. Parks said "I'm still

awake." "Less than two minutes after Warden Dan Reynolds ordered the execution to begin, Parks' body began bucking under straps that held him to a gurney. He spewed out all the air in his lungs, spraying a cloud of spit." Witnesses said "[i]t was overwhelming, stunning, disturbing." Eleven minutes after the execution began, Mr. Parks was pronounced dead.

15. Loyd LaFevers was executed by the State of Oklahoma on Tuesday, January 30, 2001. As the lethal drugs began to flow, Mr. LaFevers "laid his head back, and he began to go into convulsions, gasping for breath, his chest heaving." He "started raising off the bed" and "[t]he rising of his chest and the burst of air happened together over and over, as if he were gasping." "[H]is eyes stayed open." "[H]e appeared to have a bruise and swelling in his left arm . . . where he had an IV tube." After six minutes of convulsions, Mr. LaFevers was dead.

16. Problems with Oklahoma's lethal injection process and protocol persist. Upon information and belief, Defendants are not complying with the current, allegedly improved, protocol. Reports of post-amendment executions reflect Defendants remain out of compliance with Constitutional standards. Defendants consistently refuse to provide the review and transparency essential to a meaningful and consistent departure from their history of inhumane executions.

17. Most recently, the Defendants notified Plaintiff's counsel that they intended to execute Mr. Matthews with a substitute drug. They advised they would substitute a drug called Brevital for the anaesthetic drug sodium thiopental. To the best of

Plaintiff's knowledge, information and belief, Brevital has never been used in an execution in Oklahoma and indeed Petitioner is unaware of it being used anywhere in the country. Upon information and belief, the drug has side effects that include muscle contractions and seizures and is painful at the injection site. Further, information Plaintiff obtained on the short notice available indicates this drug's action and efficacy in the doses and context it is to be used is essentially unknown. This new anaesthetic, Brevital, will still be followed by a paralytic, vecuronium, and then potassium chloride to stop the heart. These second and third chemicals are extremely painful and would cause unnecessary suffering constituting torture if Mr. Matthews does not achieve and maintain a full plane of anaesthesia upon administration of the Brevital. Use of this drug unduly risks the torturous death of Plaintiff.

18. Unless modified and complied with, the policies and practices followed by the ODOC, particularly including the sudden changes exemplified in this case, will unnecessarily place Plaintiff at risk of suffering the same excruciating, torturous deaths as were experienced previously in Oklahoma.

A. Oklahoma's Lethal Injection Legislation and How It Came into Being.

19 After years of a court ordered moratorium on the death penalty, in 1976 the United States Supreme Court once again upheld capital sentencing procedures.

20 The problem with restarting executions in Oklahoma was that its electric chair, last used in 1966, had fallen into disrepair. The State looked for an alternative.

21. In what became the first proposal in the nation for execution by lethal injection, the

Oklahoma Legislature enacted a statute prescribing that "[t]he punishment of death must be inflicted by continuous, intravenous administration of a lethal quantity of an ultra short acting barbiturate in combination with a chemical paralytic agent until death is pronounced by a licensed physician according to accepted standards of medical practice." Okla. Stat. tit. 22, § 1014(A).

22. The statute contains no specification of drugs, dosages, drug combinations, or manner of intravenous line access. Similarly, the statute imposes no requirements for certification, training, or licensing for those who participate in executions. All of the details for carrying out executions are left up to the Department of Corrections.

B. How Executions Are Performed in Oklahoma.

23. Since the initiation of lethal injections as Oklahoma's method of execution, the ODOC has changed from time to time the manner of performing executions. No Due Process protections have been provided to Plaintiff or to similarly situated inmates as these important decisions have been made. Defendants' practice of modifying the method of execution on no or very short notice is profoundly evident in this case.

24. The drugs purportedly administered under the protocol are: Sodium Thiopental (to cause unconsciousness); Vecuronium Bromide (to cause paralysis and to stop all movement including respiration); and Potassium Chloride (to stop the heart).

C. The Risks of ODOC's Lethal Injection Process.

25. Defendants' execution process recklessly subjects condemned prisoners to significant and utterly unnecessary risks that they will be tortured to death.

26. The drugs used to cause death in an execution by lethal injection are painful. When a concentrated dose of Potassium Chloride is injected peripherally into the vein of an arm it feels like a fire traveling through the vein to the heart. Death by Potassium Chloride poisoning is known to be so excruciating that the American Veterinary Medical Association ("AVMA") prohibits use of Potassium Chloride as the sole agent of euthanasia, and if it is to be used at all, only used after the subject has reached a surgical plane of anesthesia.

27. When a neuromuscular blocking agent is administered, it paralyzes all voluntary muscles. Respiration is impossible. It locks the recipient in a chemical tomb, where he is conscious, but unable to signal distress and unable to breath. He or she eventually dies by asphyxiation. Death by asphyxiation involves intense, visceral pain and has, as a method of execution, been ruled unconstitutional as violative of the Eighth Amendment.

28. The risks of neuromuscular blocking agents are well known. The AVMA prohibits the use of neuromuscular blocking agents in combination with the barbiturate anesthetics. The State of Oklahoma prohibits the use of curariform neuromuscular blocking drugs in the euthanization of animals.

29. Lethal injection is only humane if an anesthetic is administered that induces and maintains unconsciousness before neuromuscular blockers stop respiration and Potassium Chloride stops the heart.

30. Administration of IV anesthesia requires proficiency at achieving and maintaining IV

access. Because of this, the sources of error are many:

(a) IV catheters must be inserted into a vein and not through the vein into tissue. If a catheter is incorrectly placed, the drugs flowing through the IV lines can infiltrate the tissue surrounding the catheter rather than correctly entering the vein.

(b) In Oklahoma, because two alternating IV lines are used to administer drugs two separate IV catheters must be inserted and both connections to the condemned prisoner's veins maintained throughout the execution process.

(c) Once inserted, the catheters are connected with tubing to IV fluid bags. All mechanical components of the IV system must operate correctly for the drugs to be correctly delivered. But, errors commonly occur: IV tubing sometimes leaks or becomes disconnected, or the drugs are introduced to the IV system in the wrong direction, preventing the drugs in the IV line from reaching the patient in the intended concentrations or from reaching the patient at all.

(d) Oklahoma has employed unqualified persons to create IV access. Phlebotomists are trained to collect blood; they are not competent to administer drugs intravenously and are not experts in the process of inserting and maintaining IV catheters, a fundamentally different and far more difficult task than drawing blood.

(e) On information and belief, no one monitors the IV catheters throughout executions, leaving open the possibility that IV catheters can become disconnected throughout the process.

(f) In the event that a phlebotomist cannot achieve venous access in a peripheral vein in a hand or arm, the ODOC is prepared to create venous access through the invasive and painful processes of inserting a percutaneous central line (tunneling under the skin to reach the subclavian or central vein) or performing a surgical cut down (where a vein is exposed by incision or catheritized). Because these techniques of venous access require much more skill and training and are far more invasive than peripheral vein access, they are normally performed in highly equipped emergency rooms or operating theatres.

(g) The ODOC has failed to specify who has performed these procedures in the past (and there has been at least one central line venous access performed) or who will perform them in the future, if necessary, and has failed to guarantee that those performing such measures will have the requisite training to protect condemned inmates from the unnecessary pain caused by these procedures if they are not performed in the appropriate manner.

(h) On information and belief, Oklahoma uses three lay-executioners to plunge hand held syringes in a confusing and complicated sequence to deliver the deadly drugs. The use of untrained and unsupervised persons to plunge syringes risks error in the sequence and rate of drug administration and IV line failures because the executioners cannot observe the IV site and monitor the condition of the IV catheter for things like infiltrations and blowouts and are not trained to interpret things like pressure feedback on the IV lines.

31. Training, experience, and supervision are essential to the success of the execution as a humane process. The ODOC's personnel and executioners are not properly trained in the art of administering intravenous drugs. Upon information and belief, they have never been trained in the administration of Brevital.

32. The ODOC has arbitrarily selected three drugs that unnecessarily risk conscious suffering in the dosages, combinations, and procedures that its executioners use.

33. The first drug was, at least until the recent proposed amendment, Thiopental. This is an ultra-short acting barbiturate which acts to depress the central nervous system to produce unconsciousness and anesthesia. Thiopental derives its utility in surgical procedures from its rapid onset and rapid redistribution through the body at low (surgical) doses. Typically, Thiopental is used in the induction phase of anesthesia to temporarily anesthetize patients for sufficient time to, for example, intubate the trachea. Thiopental is a drug that requires skill to administer and should be administered only by a person qualified in the use of intravenous anesthetics. Upon information and belief, Brevital also requires skill to administer as above but is ***not*** a drug typically used in surgical procedures; it is more commonly used in low dose continuous drip i.v. for short surgical, diagnostic, or therapeutic procedures associated with minimal painful stimuli, and in higher doses for Electro Convulsive Therapy where the objective of the so-called therapy is to induce seizures.

34. If it is necessary to maintain a patient in a surgical plane of anesthesia for longer than just a few minutes, drugs other than Thiopental are typically used. If Thiopental is going to be used not only to induce, but also to maintain, a surgical plane of anesthesia, a qualified person must be present to assure that the Thiopental has been correctly administered and is maintaining the patient in a state of unconsciousness. Upon information and belief, Brevital has these caveats as well, perhaps even more so.

35. On information and belief, the ODOC protocol requires monitoring the plane of anesthesia during execution and this is not actually being done in a reliable and consistent manner. In the alternative, this practice should be required and accomplished.

36. Proper dosage per body weight is essential to the efficaciousness of Thiopental. Defendants have not provided a sufficient dose in the past and must consistently and reliably do so as one requirement to avoid torturous execution. Upon information and belief, Brevital has these caveats as well, perhaps even more so.

37. The second drug, Vecuronium Bromide, is a neuromuscular blocking agent and a curariform drug – in layman's terms, a drug that induces paralysis. Neuromuscular blocking agents are used clinically to induce skeletal muscle relaxation to facilitate tracheal intubation or to suppress spontaneous respiration.

38. Neuromuscular blocking agents must be administered with great care because they have no effect on consciousness or the ability to sense and perceive pain. Unless

consciousness is assessed before the administration of the neuromuscular blocker, the paralysis induced in the patient will prevent anyone, even a person with advanced medical training, from ascertaining whether a patient is awake and capable of experiencing pain.

39. Neuromuscular blocking agents are typically accompanied by product warnings that require the drugs to be administered by experienced clinicians who are familiar with the drug's actions and the possible complications of its use. The warnings caution that the drugs have no known effect on consciousness, pain threshold, or thinking and observing. Therefore, administration must be accompanied by adequate anesthesia or sedation.

40. The effect of neuromuscular blocking agents in immobilizing patients and masking external indications of their pain is well known. Patients who have been administered neuromuscular blocking agents with inadequate anesthesia have been conscious during surgery and have reported terrifying and torturous experiences where they were alert, experiencing pain, yet utterly immobilized and unable to signal their distress.

41. The consequences of erroneous administration of neuromuscular blocking agents is so profound that at least eighteen states, including Oklahoma, have banned by statute the use of such drugs in the euthanization of animals. The AVMA never permits the use of neuromuscular blocking agents in combination with barbiturate anesthetics. The ODOC has thus settled on a protocol and procedure to kill the State's condemned

prisoners, which is considered too risky and dangerous for the euthanization of pets. There is no need to risk the conscious suffocation of these prisoners as a result of the administration of neuromuscular blocking agents. Other drugs are available to satisfy Oklahoma's statutory requirement for a "paralytic agent," which do not affect respiration. Using these alternate drugs would eliminate the risk that a condemned prisoner will consciously asphyxiate.

42. The third drug, Potassium Chloride, contains essential blood ions and is typically administered in trace amounts as a necessary electrolyte. While a certain potassium level is important for normal cardiac electrical activity, a rapid increase in blood concentration of potassium causes cardiac arrest. Injection of concentrated potassium activates sensory nerve fibers, causing severe pain as the drug travels through the venous system. There is universal medical agreement that, without anesthesia, an injection of a Potassium Chloride overdose causes excruciating pain.

43. The American Veterinary Medical Association is so confident that death by Potassium Chloride will cause unnecessary suffering that it prohibits its use as a euthanasia agent unless the practitioner administering the Potassium Chloride has the skill and training to assure that the subject to be euthanized has reached a surgical plane of anesthesia.

44. The Oklahoma statute does not require or arguably permit the administration of Potassium Chloride, and the ODOC has arbitrarily and needlessly added Potassium Chloride (which is universally acknowledged to be painful) to the protocol.

45. Alternatives that greatly reduce or eliminate the risk of a torturous death and better

comply with the statute are readily available.

D. Oklahoma Executions Have Gone Wrong.

a. Observed IV Line Access Problems.

46. The ODOC has failed to achieve successful IV access to condemned prisoners. In 2001, witnesses noticed swelling and bruising on Mr. LaFevers's left (Thiopental) arm, consistent with an IV infiltration that prevented effective delivery of the anesthetic intended to alleviate the inevitable pain accompanying the administration of a neuromuscular blocking agent and Potassium Chloride.

47. Autopsy reports show that, on at least seven occasions, executed prisoners have had multiple acute puncture marks in addition to the IV catheter sites, reflecting that the ODOC has required multiple attempts to achieve venous access. In at least one execution, it was impossible to achieve peripheral venous access and a central line was required.

48. IV access irregularities support the conclusion that personnel carrying out executions are inadequately trained and qualified.

b. Failure to Administer All Drugs.

49. Autopsy reports reveal at least two cases in which full (unused) syringes of the anesthetic Thiopental have accompanied bodies to the medical examiner's office. On information and belief, these data indicate that the ODOC has, on several occasions, arbitrarily and unnecessarily failed to administer all of the required and intended dose of Thiopental, risking inadequate anesthesia and conscious suffering.

c. Witnesses Reports of Condemned Prisoners' Reactions Suggest Inadequate Anesthesia.

50. There are many reports of prisoner reactions to the execution process, which are inconsistent with the rapid and complete onset and maintenance of anesthesia. As previously discussed, the Carpenter, LaFevers, and Parks executions were accompanied by witness observations of prisoner responses to the execution protocol that are inconsistent with effective administration of the execution protocol.

51. Witnesses to other executions also report prisoner comments like "I can taste it" and shaking and convulsions that are also inconsistent with the rapid and complete onset and maintenance of anesthesia.

d. Analytical Data Suggests Inadequate Anesthesia.

52. Postmortem Thiopental blood concentrations, in some cases, cannot be reconciled with consistent administration of Thiopental, and in some cases, are inconsistent with antemortem unconsciousness.

E. The Defendants and the ODOC Knew, Or Should Have Known, of Executions Involving the Risk of Conscious Suffering, Yet Have Failed to Correct the Execution Process to Minimize That Risk.

53. Defendants and the ODOC knew, or should have known, that their execution process is flawed in ways that entail risks of conscious suffering, but have deliberately ignored those risks and failed to make practicable modifications in the process. The ODOC policy statement number OP-090901, dated April 12, 1978 (date issued) and May 1, 1978 (effective date) indicates that Defendants and the ODOC have been

aware since 1978 that adequate IV access is essential to a humane execution, but nevertheless, have employed persons unqualified to achieve IV access as part of the execution process and have failed to employ qualified persons to monitor IV access and the plane of anesthesia throughout the execution process.

54. Defendants and the ODOC knew, or should have known, since 1978 that drugs other than neuromuscular blocking agents or curariform derivatives can serve the statutory requirement of paralytic agents, but have nevertheless continued to employ drugs known to risk conscious suffering.

55. Defendants and the ODOC knew, or should have known, of botched executions involving risks of conscious suffering, for example, the Carpenter execution, but have nevertheless continued to employ drugs, dosages, chemical combinations, and procedures that risk the needless infliction of conscious suffering. Ron Ward, who was Warden of the Oklahoma State Penitentiary during the Scott Carpenter execution, said that "There was probably more body action with this one than I've seen" and acknowledged that the Carpenter execution took longer than normal.

56. Most recently, the ODOC was intent on proceeding with the use of Brevital, an anaesthetic untested and unproven in this context and that has serious listed side effects. The ODOC's Brevital proposal was/is nothing short of experimental.

F. Defendants and the ODOC Have Arbitrarily and Capriciously Modified the Execution Processes, Subjecting Condemned Prisoners to Risks of Conscious Suffering.

57. Defendants and the ODOC have, since 1990, arbitrarily and capriciously modified the

execution processes to change, for example, the drugs used, the drug amounts, the number of IV lines used to deliver drugs, and the personnel involved, whereby exposing condemned prisoners to risks of conscious suffering. The latest and perhaps most profound alteration is the last minute switch planned for the execution of Mr. Matthews.

58. The sum of the available execution data (witness reports, postmortem Thiopental levels, execution duration, weight, and other data) indicate that the ODOC protocol has caused a high frequency of failure to effectively anesthetize condemned prisoners for the duration of executions.

59. Botched executions that risk conscious suffering are the direct and inevitable result of a protocol cobbled together in secret by people who are not qualified to conduct what is essentially the induction of anesthesia. Defendants' continued insistence on secrecy and concomitant resistance to transparency is a persistent threat to the Constitutional rights of Plaintiff. Upon information and belief, Defendants do not actually follow their allegedly improved protocols, thereby obviating some or all of the promised improvements. Further, Defendants may arbitrarily discontinue any revisions or improvements they actually have made at any time, and indeed, have amended the protocols and practices on multiple occasions without notice and usually without opportunity for input of any kind, much less a hearing.

60. The consequence of the ODOC protocol is that people are suffering when they are executed in Oklahoma. They are suffering for more than the transitory period

necessarily attendant to any death. People are suffering for prolonged periods as a result of completely avoidable problems in protocol and procedure. It is possible to conduct execution by lethal injection in a manner that both complies with Oklahoma's statute and is humane. However, Defendants and the ODOC have arbitrarily, capriciously, and unnecessarily devised a protocol and practice for carrying out executions by lethal injection that does not do so.

VII. CLAIMS

61. Plaintiff realleges and incorporates the preceding paragraphs as if fully set out herein.

62. By subjecting Plaintiff to an arbitrary, capricious, unproven and irrational method of execution that creates an unnecessary and significant risk of inflicting agonizing and prolonged pain; by designing and administering a process under which they will inject Plaintiff with chemicals in amounts, combinations, and by a protocol or protocols that unnecessarily risk conscious suffering and pain in the execution of a sentence of death; and by following practices that do the same notwithstanding any protocols, Defendants deprive Plaintiff of his rights under the Fifth, Eighth, and Fourteenth Amendments of the United States Constitution to be free from cruel and unusual punishment and to be free from arbitrary and capricious processes.

63. By subjecting Plaintiff to an arbitrary, capricious, and irrational method of execution that creates an unnecessary and significant risk of inflicting agonizing and prolonged pain, Defendants with deliberate indifference to Plaintiff's serious medical needs, violate Plaintiff's rights to be free from cruel and unusual punishment and the

unnecessary and wanton infliction of pain in violation of the Fifth, Eighth, and Fourteenth Amendments of the United States Constitution.

64. Abrupt changes of the protocol deprives Plaintiff of a meaningful opportunity to challenge the use of alternative drugs and methods specifically and of Due Process and Equal Protection of law.

VIII. PRAYER FOR RELIEF

65. Plaintiff realleges and incorporates the preceding paragraphs as if fully set out herein.

WHEREFORE, Plaintiff prays as follows:

That this Honorable Court issue a judgment declaring that Defendants' protocols, policies, practices, and acts and omissions as described herein violate Plaintiff's rights as guaranteed by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States;

That this Honorable Court temporarily and permanently enjoin Defendants, their officers, agents, employees, and successor in office, along with those acting in concert with them, from engaging in the unlawful practices described herein;

That this Honorable Court retain jurisdiction over this cause until the Court's order is carried out; and

Any and all other such relief as this Court deems just, proper, and equitable under the circumstances.

Respectfully submitted,

s/ Timothy Payne
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